

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

1. NATIVE WAREHOUSING, LLC, )  
                                    )  
                                    )  
Plaintiff,                      )  
                                    )  
v.                                 ) Case No.: CIV-12-594-C  
                                    )  
1. GRAIN DEALERS MUTUAL )  
INSURANCE COMPANY,            )  
an Indiana for profit Insurance )  
Corporation,                    )  
                                    )  
Defendant.                     )

**COMPLAINT**

**A. Parties**

1. Plaintiff, Native Warehousing, LLC, is an Oklahoma limited liability company, wholly owned by its member Donald Dillingham.
2. Donald Dillingham is a citizen of the State of Oklahoma.
3. Defendant, Grain Dealers Mutual Insurance Company, is a foreign for profit insurance corporation incorporated and organized under the laws of the state of Indiana.
4. The principal place of business for Defendant, Grain Dealers Mutual Insurance Company, is within a state other than the state of Oklahoma.
5. The Defendant, Grain Dealers Mutual Insurance Company, is licensed to conduct business in the state of Oklahoma and may be served with process through the Oklahoma Department of Insurance.

6. This action is not related to any other case filed in this court.

**B. Jurisdiction**

7. The court has jurisdiction over this matter pursuant to 28 U.S.C. §1332 because there is diversity between the parties and the amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

**C. Facts**

8. At all times material hereto Plaintiff, Native Warehousing, LLC, owned commercial properties located at 2613 Rock Island, Enid, Oklahoma; 1016 N. Van Buren, Enid, Oklahoma; 1001 S. Hoover Street, Enid, Oklahoma and 2023 W. Chestnut, Enid, Oklahoma.

9. On or about May 24, 2011, Plaintiff's commercial properties located at 2613 Rock Island, Enid, Oklahoma; 1016 N. Van Buren, Enid, Oklahoma; 1001 S. Hoover Street, Enid, Oklahoma and 2023 W. Chestnut, Enid, Oklahoma were damaged as the result of wind and hail.

10. At all times material hereto, the Plaintiff, Native Warehousing, LLC, was insured under the terms and conditions of policy number CPP522896, issued by the Defendant, Grain Dealers Mutual Insurance Company.

11. At all times material hereto, Plaintiff, Native Warehousing, LLC, complied with the terms and conditions of its commercial insurance policy.

12. Hail damage is a covered peril not otherwise excluded pursuant to the terms and conditions of the policy issued by the Defendant, Grain Dealers Mutual Insurance

Company.

**D. Count I Breach of Contract**

13. Plaintiff, Native Warehousing, LLC, properly submitted its claim for hail damage, a covered peril not otherwise excluded, to Defendant, Grain Dealers Mutual Insurance Company. Defendant, Grain Dealers Mutual Insurance Company, unreasonably disregarded obvious hail damage which was covered pursuant to the terms and conditions of Plaintiff's policy.

14. Defendant, Grain Dealers Mutual Insurance Company, unreasonably refused to work with the Plaintiff to determine an appropriate scope of damages incurred as a result of the hail storm on May 24, 2011.

15. The acts and omissions of the Defendant, Grain Dealers Mutual Insurance Company, in the investigation, evaluation and payment of Plaintiff's claim were unreasonable and constitute a breach of contract for which contractual damages are hereby sought.

**E. Count II Bad Faith**

16. Plaintiff, Native Warehousing, LLC, properly submitted its claim for hail damage, a covered peril not otherwise excluded, to Defendant, Grain Dealers Mutual Insurance Company. Defendant, Grain Dealers Mutual Insurance Company, unreasonably disregarded obvious hail damage which was covered pursuant to the terms and conditions of Plaintiff's policy.

17. Defendant, Grain Dealers Mutual Insurance Company, unreasonably refused

to work with the Plaintiff to determine an appropriate scope of damages incurred as a result of the hail storm on May 24, 2011.

18. The acts and omissions of the Defendant, Grain Dealers Mutual Insurance Company, in the investigation, evaluation and payment of Plaintiff's claim were unreasonable and constitute bad faith for which bad faith and extra-contractual damages are hereby sought.

**F. Demand for Jury Trial**

19. The Plaintiff, Native Warehousing, LLC, hereby request that matters set forth herein be determined by a jury.

**G. Prayer**

20. The unreasonable conduct of the Defendant, Grain Dealers Mutual Insurance Company, in the handling of Plaintiff's commercial property claim was intentional, willful, wanton and was committed with a reckless disregard for the rights of the Plaintiff for which punitive damages are hereby being sought.

21. Having properly plead, Plaintiff, Native Warehousing, LLC, hereby seeks contractual, bad faith and punitive damages against the Defendant, Grain Dealers Mutual Insurance Company. The unreasonable conduct of the Defendant, Grain Dealers Mutual Insurance Company, in the handling of Plaintiff's commercial property claim was intentional, willful, wanton and was committed with a reckless disregard for the rights of the Plaintiff for which punitive damages are hereby being sought, all in an amount in excess of \$75,000.00; including costs, interest and attorney

fees.

Respectfully submitted,

S/Michael D. McGrew

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Michael D. McGrew, OBA# 013167

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